IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket
CHRISTIAN HENTSCHEL ET AL.	PHNL 020911
Serial No.: 10/527,861	Group Art Unit: 2186
Filed: March 16, 2005	Examiner: S.J. Tsai
	Confirmation No.: 2056

METHOD AND SYSTEM FOR ALLOCATING SHARED RESOURCES BETWEEN APPLICATIONS

Commissioner for Patents
P.O. Box 1450
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Sir:

APPEAL BRIEF

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(i) Real Party in Interest

The real party in interest in this application is KONINKLIJKE PHILIPS ELECTRONICS N.V. by virtue of an assignment from the inventors recorded on September 16, 2005, at Reel 016992, Frame 0410.

(ii) Related Appeals and Interferences

There are no other appeals and/or interferences related to this application.

(iii) Status of Claims

Claims 1, 3, 4, 6-9, 11, 12 and 14-17 stand finally rejected by the Examiner. Claims 2, 5, 10 and 13 have been cancelled. Appellants hereby appeal the rejection of claims 1, 3, 4, 6-9, 11, 12 and 14-17.

(iv) Status of Amendments

There was one Response filed on April 30, 2009, after final rejection of the claims on March 17, 2009, this Response having been considered by the Examiner.

(v) Summary Of Claimed Subject Matter

The subject invention relates to a method and system for allocating shared resources between applications with media information on a resource limited platform.

In particular, the method of the subject invention, as claimed in claim 1, includes:

identifying an application with a current focus of a user ***(Fig. 1: 20; Specification page 5, lines 15-17)***;

setting or increasing the allocation of resources for the application with the current focus of the user ***(Fig. 1: 30; Specification page 6, lines 1-5)***; and

automatically allocating a remaining part of the resources to at least one application without the current focus of the user ***(Fig. 1: 40; Specification page 6, lines 6-12)***,

wherein the step of identifying the application with the current focus of the user is selected from at least one of the group of: user controlled, system controlled, or externally controlled ***(Specification page 5, lines 15-17)***,

and wherein a provider of the media information performs the externally controlled step of identifying the application with the current focus of the user ***(Specification page 5, lines 33-34)***.

As claimed in claim 3, in the method of the subject invention: the user controlled step of identifying the application with the current focus of the user, comprises one or more of the following steps:

selecting a new application as the application with the current focus of the user, when the new application is opened ***(Specification page 5, lines 19-20)***;

changing the application with the current focus of the user to an application just switched to upon switching to an already opened application ***(Specification page 5, lines 20-22)***;

when the user closes down an application with the current focus, switching to the application with the preceding focus of the user by keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance ***(Specification page 5, lines 22-25)***.

As claimed in claim 4, in the method of the subject invention: the system controlled step of identifying the application with the current focus of the user, is performed by one of the following steps:

an automatically changing of the current focus of the user according to a predetermined priority hierarchy of the available applications ***(Specification page 5, lines 27-29)***;

keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance ***(Specification page 5, lines 29-31)*** and, switching to the application with the preceding focus of the user when the user closes down an application with the current focus ***(Specification page 5, lines 31-32)***.

As claimed in claim 6, in the method of the subject invention: the step of setting or increasing the allocation of resources for the application with current focus of the user is performed automatically by means of automatic settings of the overall system control and with no additional input from the user ***(Specification page 7, lines 10-16)***.

As claimed in claim 7, in the method of the subject invention: the step of setting or increasing the allocation of resources for the application with the current focus of the user is performed manually by user interaction by means of a user interface ***(Specification page 7, lines 3-5)***.

As claimed in claim 8, in the method of the subject invention: the automatic settings of the overall system control is influenced by a learning function, which takes previous user settings of the past into account, wherein the learning function is implemented as at least one of an averaging function, a recursive function, a non-recursive function, a non-linear function, a function with different weightings, having the previous user settings as an input ***(Specification page 4, lines 15-24)***.

As claimed in claim 9, the subject invention includes: a system for allocating shared resources between applications with media information on a resource limited platform, characterized in that the system comprises:

means for identifying an application with a current focus of a user ***(Fig. 2: 140; Specification page 6, line 23 to page 7, line 2)***;

means for setting or increasing the allocation of resources for the application with the current focus of the user ***(Fig. 2: 110, 120, 140; Specification page 7, lines 3-16)***;

means for automatically allocating a remaining part of the resources to at least one application without the current focus of the user ***(Specification page 6, lines 6-12)***,

wherein the means for identifying the application with the current focus of the user is selected from at least one of the group of: user controlled means, system controlled means, or externally controlled means ***(Specification page 5, lines 15-17)***,

and wherein a provider of the media information provides the external control for the means for identifying the application with the current focus of the user ***(Specification page 7, lines 27-34)***.

As claimed in claim 11, in the system of the subject invention:

the user controlled means for identification of the application with the current focus of the user, comprises one or more of the following:

means for selecting a new application as the application with the current focus of the user, when the new application is opened ***(Fig. 2: 110, 140; Specification page 5, lines 26-32)***;

means for changing the application with the current focus of the user to an application just switched to upon switching to an already opened application ***(Fig. 2: 110, 140; Specification page 7, lines 3-6)***;

means for switching to the application with the preceding focus of the user, when the user closes down an application with the current focus ***(Specification page 5, lines 26-32)***, and

means for keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance ***(Specification page 5, lines 26-32)***.

As claimed in claim 12, in the system of the subject invention:

the means for system controlled identification of the application with the current focus of the user, comprises:

means for automatically changing the current focus of the user according to a predetermined priority hierarchy of the available applications ***(Fig. 2: 120, 140; Specification page 7, lines 10-16)***;

means for keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance ***(Specification page 5, lines 26-32)***, and

means for switching to the application with the preceding focus of the user when the user closes down an application with the current focus ***(Specification page 5, lines 26-32)***.

As claimed in claim 14, in the system of the subject invention:

the means for setting or increasing the allocation of resources for the application with current focus of the user is activated

automatically and with no additional input from the user ***(Fig. 2: 120, 140; Specification page 7, lines 10-16)***.

As claimed in claim 15, in the system of the subject invention:

the means for setting or increasing the allocation of resources for the application with the current focus of the user is activated manually by user interaction by means of a user interface ***(Fig. 2: 110, 140; Specification page 7, lines 3-6)***.

As claimed in claim 16, in the system of the subject invention:

the automatic settings of the overall system control is influenced by a learning function, which takes previous user settings of the past into account, wherein the learning function is implemented as at least one of an averaging function, a recursive function, a non-recursive function, a non-linear function, a function with different weightings, having the previous user settings as an input ***(Fig. 3: 140, 160; Specification page 4, lines 15-24, page 8, lines 1-8)***.

Furthermore, as claimed in claim 17, the subject invention includes:

a computer-readable medium having stored thereon instructions for causing a processing unit to execute the method as claimed in claim 1 ***(Specification page 4, lines 25-26)***.

(vi) Grounds of Rejection to be Reviewed on Appeal

(A) Whether the invention, as claimed in claims 1, 3, 4, 6, 7, 9, 11, 12, 14, 15 and 17, is unpatentable, under 35 U.S.C. 103(a), over U.S. Patent 6,091,414 to Kraft, IV et al., in view of U.S. Patent 7,200,857 to Rodriguez et al.

(B) Whether the invention, as claimed in claims 8 and 16, is unpatentable, under 35 U.S.C.103(a), over Kraft, IV et al in view of Rodriguez et al., and further in view of U.S. Patent 5,596,502 to Koski et al.

(vii) Arguments

35 U.S.C. 103(a) states:

"(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made."

(A) Whether Claims 1, 3, 4, 6, 7, 9, 11, 12, 14, 15 and 17 Are Unpatentable Over Kraft, IV et al. In View Of Rodriguez et al.

(1) Claims 1 and 9

The Kraft, IV et al. patent discloses a system and method for cross-environment interaction in a computerized graphical interface environment, in which two (or more) applications are concurrently running on a processor and have corresponding windows appearing on the display. The window corresponding to the application with current user focus is distinguished from the other windows (e.g., a different border color, appearing on top of the other windows, etc.). The focused application is provided with more CPU resources relative to remaining tasks, applications, etc.

The Rodriguez et al. patent discloses synchronized video-on-demand supplemental commentary, in which advertisement pop-ups are provided during a movie-on-demand, the Advertisement pip-ups being externally controlled and provided by a media provider.

It is Appellants' position that while Rodriguez et al. discloses the appearance of pop-ups, there is no disclosure or suggestion that there is a reallocation of the resources of the system such that the pop-up has the current focus of the user.

The Examiner states:

> "Rodrigues teaches [Advertisement pop-ups are optional supplements that enable the user to receive product information during the on-demand video presentation in exchange for a lower rental fee. The advertisements may be specific to products inherent during the course of the on-demand movie such a watch worn by a leading actor. Furthermore, the advertisement supplement's active time interval may be concurrent to the time in the movie that the leading actor reads the time on the watch (column 10, lines 12-20)]. Thus, the system needs to, at the very least, allocate resources to ensure that the advertisement supplement's active time interval may be concurrent to the time in the movie that the leading actor reads the time on the watch. Further, since the pop-ups are optional supplements to the user's current focus (for example, the movie would be the user's current focus when the user is watching a movie), resources have to be allocated so that this optional supplements, which may not exist in a basic setting, are added onto the basic stuff."

Appellants acknowledge that there must be a reallocation of resources such that the pop-ups of Rodriguez et al. are visible. However, there is no disclosure or suggestion in Rodriguez et al. that the resources are reallocated such that the pop-ups have the current focus of the user. As described in the specification on page 2, line 28 to page 3, line 3, "the application with the current focus of the user" is define as an application "which is currently prioritized by a user". In the example of a pop-up appearing on an on-demand movie, an indication that the pop-up has the current focus of the user would be that the user could activate the pop-up by merely "clicking" on the pop-up using a cursor.

However, if the user needs to, for example, in addition, press the "CONTROL" key on his/her computer while clicking on the pop-up, this would be indicative that the pop-up does not have the current focus of the user, and the simultaneous pressing of the "CONTROL" key with the clicking on the pop-up shift the system allocation such that the pop-up has the current focus of the user, thereby enabling the user to activate the pop-up.

However, there is no disclosure or suggestion in Rodriguez et al. that the pop-up now has the current focus of the user. Hence, Appellants submit that the disclosure in Rodriguez et al. does not meet that claim limitation "wherein a provider of the media information performs the externally controlled step of identifying the application with the current focus of the user".

The Examiner now states:

> "First, figure 7 of Rodriguez shows the display screen with "pop-up comments" (123) as one of the displayed item. Significantly, it specifically shows that the "pop-up comments" is the high-lighted item (with board outlines), which indicates it is the current focus of the user.
>
> "Second, figure 8 further shows the display of the screen when the "pop-up comments" is activated [FIG. 8 depicts an example stopped video window 130 that is presented to the user after the user stops the presentation of a video rental for which actors' pop-up comments had been activated ... Rental control options list 133 contains rental control options, such as the option to "De-activate comments" 134 ... (col. 11, lines 14-34)]. Note that activating and de-activating of the "pop-up comments" further confirm that it is the current focus of the user.
>
> "Further, figures 9 and 10 also show the display of the screen when the "pop-up comments" is activated [FIG. 9 depicts an example stopped video window 140 that is presented to the user after the user stops the presentation of a video rental for which pop-up comments are not activated. Rental control options list 133 contains rental control options, such as the option

> to "Activate pop-up comments" 144, and a highlighted option area 135. A user can activate pop-up comments by selecting the "Activate pop-up comments" option 144 via the remote control device 80 ... (col. 11, lines 35-45); FIG. 10 depicts an example pop-up comments selection window 150 that is presented to the user after the user selects the "Activate pop-up comments" option 144 via stopped video window 140 ... (col. 11, lines 61-67)].
>
> "Thus, Rodriguez clearly teaches that the pop-have the current focus of the user".

Appellants submit that Fig. 7 does not show an example of a display with pop-up comments. Rather, Fig. 7 is a rental options selection window allowing the user to enable pop-up comments when the video is being presented. Figs. 8 and 9 show stopped video windows that are presented after the user has stopped presentation of the video, where the status of pop-up comments is displayed, while Fig. 10 shows such a stopped video window in which the user has selected the "Activate pop-up comments" option in the stopped video window. However, none of Figs. 8-10 show actual pop-up comments, which would appear during the presentation of the video, and none of Figs. 7-10 show that the pop-up comments, when they appear (assuming that they are activated) during the presentation of the video, have the current focus of the user. Rather, the selections made in Figs. 7-10 only control whether the pop-up comments appear.

(B) Whether Claims 8 And 16 Are Unpatentable Over Kraft, IV et al. In View Of Rodriguez et al. And In View Of Koski et al.

(1) Claims 8 and 16

The above arguments with respect to Kraft, IV et al. and Rodriguez et al. are incorporated herein.

Claims 8 and 16 include the limitation "the automatic settings of the overall system control is influenced by a learning function, which takes previous user settings of the past into account, wherein the learning function is implemented as at least one of an averaging function, a recursive function, a non-recursive function, a non-linear function, a function with different weightings, having the previous user settings as an input."

The Koski et al. patent discloses a computer system including means for decision support scheduling, which the Examiner indicates as teaching "the motivation of having a learning function with different weights to take previous user setting into account when performing automatic setting is to allocate the best available resource [in response to demand placed on the Cube World by a customer order, which program allocates the best available resources to produce products".

However, Appellants submit that Koski et al. does not supply that which is missing from Kraft, IV et al. and Rodriguez et al., i.e., "wherein a provider of the media information performs the externally controlled step of identifying the application with the current focus of the user".

Based on the above arguments, Appellants believe that the subject invention is not rendered obvious by the prior art and is patentable thereover. Therefore, Appellants respectfully request that this Board reverse the decisions of the Examiner and allow this application to pass on to issue.

Respectfully submitted,

by /Edward W. Goodman/
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(viii) Claims Appendix

1. (Previously Presented) A method of allocating shared resources between applications with media information on a resource limited platform, characterized in that the method comprises the following steps:

identifying an application with a current focus of a user;

setting or increasing the allocation of resources for the application with the current focus of the user; and

automatically allocating a remaining part of the resources to at least one application without the current focus of the user,

wherein the step of identifying the application with the current focus of the user is selected from at least one of the group of: user controlled, system controlled, or externally controlled,

and wherein a provider of the media information performs the externally controlled step of identifying the application with the current focus of the user.

2. (Cancelled).

3. (Previously Presented) The method as claimed in claim 1, characterized in that the user controlled step of identifying the application with the current focus of the user, comprises one or more of the following steps:

selecting a new application as the application with the current focus of the user, when the new application is opened;

changing the application with the current focus of the user to an application just switched to upon switching to an already opened application;

when the user closes down an application with the current focus, switching to the application with the preceding focus of the user by keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance.

4. (Previously Presented) The method as claimed in claim 1, characterized in that the system controlled step of identifying the application with the current focus of the user, is performed by one of the following steps:

an automatically changing of the current focus of the user according to a predetermined priority hierarchy of the available applications;

keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance and, switching to the application with the preceding focus of the user when the user closes down an application with the current focus.

5. (Cancelled).

6. (Previously Presented) The method as claimed in claim 1, characterized in that the step of setting or increasing the allocation of resources for the application with current focus of the user is performed automatically by means of automatic settings of the overall system control and with no additional input from the user.

7. (Previously Presented) The method as claimed in claim 1, characterized in the step of setting or increasing the allocation of resources for the application with the current focus of the user is performed manually by user interaction by means of a user interface.

8. (Previously Presented) The method as claimed in claim 6, characterized in that the automatic settings of the overall system control is influenced by a learning function, which takes previous user settings of the past into account, wherein the learning function is implemented as at least one of an averaging function, a recursive function, a non-recursive function, a non-linear function, a function with different weightings, having the previous user settings as an input.

9. (Previously Presented) A system for allocating shared resources between applications with media information on a resource limited platform, characterized in that the system comprises:

means for identifying an application with a current focus of a user;

means for setting or increasing the allocation of resources for the application with the current focus of the user;

means for automatically allocating a remaining part of the resources to at least one application without the current focus of the user,

wherein the means for identifying the application with the current focus of the user is selected from at least one of the group of: user controlled means, system controlled means, or externally controlled means,

and wherein a provider of the media information provides the external control for the means for identifying the application with the current focus of the user.

10. (Cancelled).

11. (Previously Presented) The system as claimed in claim 9, characterized in that the user controlled means for identification of the application with the current focus of the user, comprises one or more of the following:

means for selecting a new application as the application with the current focus of the user, when the new application is opened;

means for changing the application with the current focus of the user to an application just switched to upon switching to an already opened application;

means for switching to the application with the preceding focus of the user, when the user closes down an application with the current focus, and

means for keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance.

12. (Previously Presented) The system as claimed in claim 9, characterized in that the means for system controlled identification of the application with the current focus of the user, comprises:

means for automatically changing the current focus of the user according to a predetermined priority hierarchy of the available applications;

means for keeping a record of the order of previously opened applications to indicate their importance in decreasing order, where the most recently opened application has the highest importance, and

means for switching to the application with the preceding focus of the user when the user closes down an application with the current focus.

13. (Cancelled).

14. (Previously Presented) The system as claimed in claim 9, characterized in that the means for setting or increasing the allocation of resources for the application with current focus of the user is activated automatically and with no additional input from the user.

15. (Previously Presented) The system as claimed in claim 9, characterized in that the means for setting or increasing the allocation of resources for the application with the current focus of the user is activated manually by user interaction by means of a user interface.

16. (Previously Presented) The system as claimed in claim 9, characterized in that the automatic settings of the overall system control is influenced by a learning function, which takes previous user settings of the past into account, wherein the learning function is implemented as at least one of an averaging function, a recursive function, a non-recursive function, a non-linear function, a function with different weightings, having the previous user settings as an input.

17. (Previously Presented)A computer-readable medium having stored thereon instructions for causing a processing unit to execute the method as claimed in claim 1.

(ix) Evidence Appendix

There is no evidence which had been submitted under 37 C.F.R. 1.130, 1.131 or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this Appeal.

(x) Related Proceedings Appendix

Since there were no proceedings identified in section (ii) herein, there are no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 C.F.R. 41.37.